

MONTANA LEGISLATIVE HISTORY

Chapter 647 19 79

Bill H 442 S _____ Original bill & history C

H. Committee on State Admin.

Hearing Date(s) Feb 01 ☒ C

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Date Out _____ C

S. Committee on Local Govt.

Hearing Date(s) Mar 08 ☒ C

Mar 17 ☒ C

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Did this bill originate in an interim committee? Yes No

Committee _____

Report _____

1 HOUSE BILL NO. 442
2 INTRODUCED BY Margaret Hinds Smith Messaert
3 Zeisberg
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO INCREASE THE MINIMUM
5 AND MAXIMUM SALARIES OF DISTRICT COURT REPORTERS; AMENDING
6 SECTION 3-5-602, MCA."
7
8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
9 Section 1. Section 3-5-602, MCA, is amended to read:
10 "3-5-602. Salary and expenses -- apportionment. (1)
11 Each reporter is entitled to receive an annual salary of not
12 less than ~~\$12,500~~ \$19,000 or more than ~~\$16,000~~ \$25,000 and
13 no other compensation except as provided in 3-5-604. The
14 salary shall be set by the judge in the district in which
15 the reporter works. It is payable in monthly installments
16 out of the general funds of the counties comprising the
17 district for which the reporter is appointed, in proportion
18 to the number of civil and criminal actions commenced in the
19 district court in and for each county in the preceding year.
20 The judge of the district shall, on January 1 of each year
21 or as soon thereafter as possible, apportion the amount of
22 the salary to be paid by each county in his district on the
23 basis prescribed in this subsection.
24 (2) In judicial districts comprising more than one
25 county, the reporter is allowed, in addition to the salary

1 and fees provided for in subsection (1), his actual and
2 necessary expenses of transportation and living when he goes
3 on official business to a county of his judicial district
4 other than the county in which he resides, from the time he
5 leaves his place of residence until he returns thereto. The
6 expenses shall be apportioned and payable in the same way as
7 the salary."

-End-

MINUTES OF THE MEETING
LOCAL GOVERNMENT COMMITTEE
MONTANA STATE SENATE

March 8, 1979

The meeting of the Local Government Committee was called to order by Chairman George McCallum on March 8, 1979, at 12:40 in Room 405 of the State Capitol Building.

ROLL CALL: All members were present with the exception of Senator Peterson, who was excused.

Dennis Taylor, staff researcher, was also present.

Many visitors were in attendance.

CONSIDERATION OF HOUSE BILL 399: Representative Hal Harper, of District 30, chief sponsor of House Bill 399, gave a brief resume. This bill is an act to authorize the board of county commissioners to establish compensation for coroners. Mr. Harper stated the coroners salaries do not have any relationship to the present salaries of today. These salaries should have been put with the board of county commissioners.

Mike Meloy, of Helena, stood in support of the bill. He stated that HB 399 would change from the old method of compensation for coroners and put it in the hands of the county commissioners.

Micky Nelson, Lewis and Clark County Coroner, stated his support of the bill. Mr. Nelson stated that the present system must be changed if we are going to keep coroners in Montana. It should be a pay status instead of a donation. 1949 was the last time coroners in first class counties were given a raise.

With no further proponents, Senator McCallum called on the opponents. Hearing none, Representative Harper made the closing remarks. He stated that this will move the coroners from a fee basis to a salary basis and put them under the jurisdiction of the county commissioners. Coroners are on call all of the time.

The meeting was opened to a question and answer period from the Committee.

CONSIDERATION OF HOUSE BILL 442: Representative Darryl Meyer, of District 42, chief sponsor of HB 442, gave a brief resume on the bill. This bill is an act to increase the minimum and maximum salaries of district court reporters.

Laurie Diemert, a court reporter for Judge Bennett, stated her support of the bill. Ms. Diemert explained the duties of her job. Court reporters are required to make verbatim record of proceedings in court, to act as an aid, assistant and secretary to the district judge. Court reporters are paid by the county which he or she

serves. Ms. Diemert stated that the work load of the reporters is increasing all the time. (See attachment.)

Tom Cavanaugh, a court reporter from Missoula, stated the court reporters need a pay increase to cover the cost of living and because the work load has increased significantly. Many other county employees have received a cost of living increase. The last wage increase of a court reporter was in 1975. (See attachment.)

With no further proponents, Chairman McCallum called on the opponents. Hearing none, the meeting was opened to a question and answer period from the Committee.

Senator Lockrem asked if each judge has his own court reporter. He was answered "yes".

Senator O'Hara asked what qualifications a court reporter must have to be employed. He was told that court reporters are specially trained and must be certified.

Senator McCallum asked if they ever received money for their work beyond their regular wages.

Bob Nebor, president of the Court Reporters Association, stated that their transcripts are sold to attorneys and their clients.

With no further questions, Representative Meyer closed by asking the Committee for a favorable vote on House Bill 442.

CONSIDERATION OF HOUSE BILL 476: Representative Jay Fabrega, of District 44, chief sponsor of HB 476, gave a brief resume. This bill is an act to make the office of county coroner an appointive office, setting minimum qualifications and certain prohibitions for the office of county coroner. Representative Fabrega stated that there could be a conflict of interest under the present law.

Henry Bernard, a funeral director, stated that a conflict arises when the coroner is also the mortician. Mr. Bernard told the Committee of an opinion handed down from the Attorney General's office stating that one cannot have a financial interest in the proceeds of one's duties. Mr. Bernard stated that some of the coroners have definitely been wearing two hats. Most funeral directors do not want to make waves, so they have to be very careful in their diagnosing of situations when they are also the coroner.

Micky Nelson, Lewis and Clark County Coroner, stated that he liked the idea of being elected.

With no further proponents, Chairman McCallum called on the opponents.

THANK YOU!

**THE MONTANA
COURT REPORTERS
APPRECIATE
YOUR SUPPORT**

**THE MONTANA
COURT REPORTERS
ASK YOUR
SUPPORT**

**IT IS COMMON KNOWLEDGE THAT
INFLATION AND THE INCREASE IN
THE COST OF LIVING HAS HURT
US ALL. FOR THIS REASON WE
ARE ASKING FOR A SALARY AD-
JUSTMENT.**

PLEASE CONSIDER THE FOLLOWING IN MAKING A DETERMINATION

What is a Court Reporter?

A Court Reporter is a person employed in the District Courts of Montana to make a verbatim record of proceedings in court.

Such Court Reporter is hired as a DISTRICT COURT EMPLOYEE, PAID BY THE COUNTIES HE SERVES, in proportion to the volume of court work in each county.

A person trained to be able to make such a record to protect the rights of all people who appear in our court system.

The schooling necessary for the position as a Court Reporter is extremely difficult, the work is demanding (for there can be no errors), and the hours of work will vary, with the probability of working nights and weekends in an effort to remain current in court work.

Further education and training is required by the Reporters to maintain their proficiency.

Whether criminal or civil, the Reporter's transcript is the only accurate method of review of a District Judge's actions and rulings by Appellate Courts.

An ACCURATE record can only be made by COMPETENT, CONSCIENTIOUS, TRAINED and preferably EXPERIENCED Court Reporters.

Montana has, for years, been a training ground for Reporters, who after a year or so in Montana, would move to other states.

THE MONTANA SUPREME COURT CANNOT FUNCTION WITHOUT COMPETENT REPORTERS TO PREPARE ACCURATE TRANSCRIPTS ON APPEAL.

THE MONTANA DISTRICT JUDGES REQUIRE COMPETENT COURT REPORTERS to produce the verbatim record, to act as an aid, assistant and secretary to the District Judge.

The last legislative salary adjustment the Montana Reporters received was in 1975.

February 23, 1979

Re: HB-442, Court Reporters' salary increase

We earnestly seek your support for the above bill. We understand that the bill has been passed by the House. Our further understanding is that the bill provides for court reporters' salaries as follows: minimum-\$12,500.00 and maximum-\$22,000.00. We agree with the bill and would point to the House vote on the measure as indicative of the strong need for passage of this bill by the Senate.

We have included information on reasons for needing the wage adjustment, based on cost of living primarily. Also we would submit the following reasons for passage of the bill from our prospective in the Fourth Judicial District, which includes Missoula, Ravalli, Lake, Sanders and Mineral Counties:

1. As evidenced by the bill to provide another judge in this district and the recent Supreme Court case about the over-burdened court in Missoula and other areas of the state, our caseload is increasing rapidly and is becoming almost unmanageable.

2. The recent State of the Judiciary message of Chief Justice Frank Haswell of the Montana Supreme Court pointed out, among other things, the sharp rise in appeals being filed. One of our primary functions is to prepare Transcripts on Appeal. This rise has caused us to spend much more time on the preparation of transcripts.

3. Recent Supreme Court decisions have caused us to be present to preserve the record for many court actions where a record formerly was not required, including: juvenile hearings, insanity hearings, alcohol hearings, custody hearings, and the voir dire examination and opening and closing arguments of trials.

4. The District Court judges received a substantial increase in wages during the last Legislature, and there is a bill before this Legislature to raise their wages again. These measures seem

to recognize the need for higher wages in the judiciary because of the mounting workload. We believe that the same consideration that is given the judges in setting their wages should also be afforded to the court reporters, since the two work closely together.

We feel strongly that the need for a cost of living increase forces us to solicit a bill from the Legislature. Your support is urgently and respectfully requested by us.

Thank you.

Very truly yours,

Julie A. Martin, RPR, CSR

Thomas H. Cavanagh, Jr., RPR, CSR

JAM-THC:bl
Encl.

MONTANA DISTRICT COURT REPORTERS

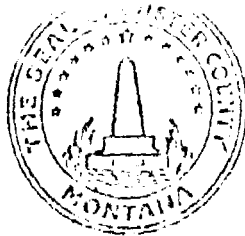
What salaries would have been had Court Reporters been given a cost of living increase since their salary was established in 1975 by the Montana Legislature, based on the maximum salary of \$16,000.00, and allowing for a seven (7) percent increase per year.

1975	\$16,000.00
1976	17,120.00
1977	18,318.40
1978	19,601.69
1979	20,973.81
1980	22,441.98
1981	24,012.92

ALLOCATION OF COURT REPORTERS' SALARIES:

In the Fourth Judicial District the salary of a court reporter at a maximum of \$16,000.00 would be prorated as follows, based on the number of criminal and civil cases filed in each county during 1978:

<u>COUNTY</u>	<u>PERCENTAGE</u>	<u>AMT. PER MONTH</u>
Missoula	64.77	\$863.60
Ravalli	13.41	178.80
Sanders	5.57	74.26
Mineral	2.10	28.00
Lake	14.15	188.66
	100.00	\$1333.32



County of Custer

Custer County Courthouse
1010 Main
MILES CITY, MONTANA 59301

In just a few short weeks you will be journeying to Helena for the 1979 Legislative session, and I wish you much success in the very difficult task you are about to undertake.

As County Commissioner of Custer County and a former State Representative, I strongly request your support for the Montana Court Reporters and Juvenile Probation Officer's legislation concerning a salary adjustment. The last salary adjustment for these two departments was in 1975. In four years they have received absolutely nothing in the way of a cost of living raise. Other county employees have been receiving yearly cost of living increases of 5% to 8% per year, at the discretion of the county commissioners, but these two positions in the courthouse were not able to receive increases due to the wording of the state statutes. I'm sure inflation has hit them just as hard as anyone and they should be treated the same as other government employees.

Thank you for considering this salary adjustment. I don't like increased expenditures any more than you do, but we should be fair.

Being a Legislator is a tough job and I don't envy your next few months.

Sincerely,

Walter J. Ulmer
Custer County Commissioner

ACTIONS FILED IN THE FOURTH JUDICIAL DISTRICT BY COUNTY & YEAR

A third judge was added to the District by the 1963 legislature

Year	1962	1963	1964	1965	1966	1967	1968	1969	1970	1971	1972	1973	1974	1975	1
Original Cases															
Missoula	27	28	49	70	49	75	77	64	99	140	153	216	211	243	2
Ravalli	28	17	16	26	21	18	17	31	15	25	60	42	62	54	
Sanders	8	13	5	6	4	11	10	6	18	12	21	26	36	31	4
Mineral	5	11	9	8	6	6	7	2	9	8	4	35	14	15	
Lake	5	6	14	15	34	27	40	34	51	59	76	57	73	73	
Total	73	75	93	125	114	137	151	137	192	244	314	376	396	416	4
Appeal Cases															
Missoula	909	849	907	1042	1251	1134	1165	1115	1318	1430	1500	1691	1724	1956	19
Ravalli	146	173	147	186	193	132	174	157	186	194	222	254	327	362	3
Sanders	88	87	70	85	88	81	87	91	103	101	103	119	168	171	1
Mineral	76	69	60	71	59	52	58	75	47	81	62	66	66	68	1
Lake	211	218	170	189	236	282	282	300	240	274	303	277	316	302	3
Total	1430	1396	1354	1573	1827	1681	1766	1738	1894	2130	2190	2427	2701	2759	28
Grand Total	1503	1471	1447	1698	1941	1818	1917	1875	2086	2374	2504	2703	3097	3275	32

- Fire Association, stated their support of the bill.

There were no opponents to the bill. Representative Kessler made the closing remarks. He stated that this bill would allow for orderly growth and that is very necessary.

The meeting was opened to a question and answer period from the Committee. Discussion was held.

CONSIDERATION OF HOUSE BILL 366: Representative Gerald Kessler of District 66, chief sponsor of HB 366, gave a brief resume. This bill is an act to streamline the various methods of annexation; establishing that each annexation method is separate and distinct. Representative Kessler stated that there are five methods of annexation. This bill makes each of the procedures operate independently of one another. Some statutes are in conflict with one another. This would clear up the procedures.

Mae Nan Ellingson, representing the City of Missoula, stood in support of the bill. She stated that the Planned Community Development Act came about in 1974. Most of the annexed Missoula area is being done by the individual property owner on an individual basis. House Bill 366 would clarify and make each method of annexation separate and would make the rural fire district exclusion only applicable on the one method of annexation.

Dan Mizner, of the League of Cities and Towns, stated his support of the bill. He stated that House Bill 365 and 366 are both needed together.

Eva Spaulding, representing the League of Women Voters, stated her support of HB 366.

Dave Fischer and Art Korn, of the Montana State Volunteer Firemen's Association, both stood in support of the bill.

There were no opponents present.

The meeting was opened to a question and answer period from the Committee. Discussion was held.

DISPOSITION OF HOUSE BILL 687: This bill is in regard to the county contribution for a veteran's gravestone from \$20 to \$30.

A motion was made by Senator Thomas that House Bill 687 "BE CONCURRED IN". Motion carried unanimously.

DISPOSITION OF HOUSE BILL 442: This bill is in regard to increasing the maximum salaries of district court reporters.

Senator O'Hara suggested that perhaps this bill could be amended instead of passing it out of Committee in the situation it is in right now.

A motion was made by Senator O'Hara that HB 442 be amended to have a maximum salary of \$18,000. Motion carried.

A motion was made by Senator O'Hara that HB 442 "BE CONCURRED IN, as amended". Motion carried with everyone voting "yes", except Senator Lockrem who voted "no".

DISPOSITION OF HOUSE BILL 751: This bill is in regard to permitting election or appointment of city judges in third class cities.

A motion was made by Senator Rasmussen that HB 751 "BE CONCURRED IN". Motion carried.

After some discussion, a motion was made by Senator Rasmussen that the Committee reconsider their actions on HB 751. Motion carried.

A motion was made by Senator Rasmussen that the bill be amended on page 3. Strike lines thirteen through eighteen in their entirety. Motion carried.

A motion was made by Senator Rasmussen that HB 751 "BE CONCURRED IN, as amended". Motion carried.

CONSIDERATION OF HOUSE BILL 808: This bill allows cities other than those of first or second class to elect to terminate P.E.R.S. coverage for their police officers and to join the municipal police officers' retirement system.

Senator Thomas made a motion to accept the proposed amendments which would change the date from January to July throughout the bill. Motion carried.

Mr. Dan Mizner was asked some questions from the Committee. He stated that he did not like to answer without the chief sponsor of the bill present, however, he would answer, but not volunteer information.

Mr. Mizner stated this bill would allow third class cities to come under municipal police system. This will affect only Libby and Whitefish at the present time.

Senator Thomas stated that this will cost the cities money.

A motion was made by Senator Rasmussen that HB 808 "BE NOT CONCURRED IN, as amended". Motion carried with everyone voting "yes" except Senator Peterson who abstained. Motion carried.

DISPOSITION OF HOUSE BILL 616: This bill requires counties to submit purchase and lease agreements to competitive bid.

Senator Lockrem stated that he did not feel this bill is fair to the taxpayers.

March 17

19 79

MR. President:

We, your committee on Local Government

having had under consideration House Bill No. 442

Meyer (O'Hara)

Respectfully report as follows: That House Bill No. 442,

third reading bill be amended as follows:

1. Page 1, line 13.

Following: line 12.

Strike: \$22,000

Insert: \$18,000

O.O.

~~XXXXXXXX~~ AND, as so amended, BE CONCURRED IN

February 1, 1979

- Chairman Brand called the meeting to order at 9:00 a.m., all members answered roll call.

HB 442-Sponsored by Rep. Meyer -- This bill deals with court reporters and increasing their salary - the last increase they had was in 1975, and the inflation rate since then has been absurd. I have passed out a leaflet published by the court reporters (see Attachment #1), and there are reporters here to testify and answer questions.

LAURIE DIEMERT-Montana Shorthand Repairee's Association -- I work for Judge Bennett. She discussed the present statutory wage. If you don't support this, our present salary will be the same until 1981. She then described the duties of court reporter taking testimony verbatim and transcribing it. We have to build up our speed until we can take word for word. Continuing education comes out of our own pockets. Continuing education has to be done alot because of expert testimony, and if the court can't afford a secretary, then we also do that. Alot of overtime is involved. and our caseload has doubled, so the appeals cases have doubled. I would urge your support for a deserved salary increase.

ED WONTOR-Montana Court Reporters' Association -- The increase we are seeking doesn't come out of the General Fund. We are paid by the county in which the case originates. We don't get any benefits from the county and I do get sick leave, but if I get sick, there's no one to take my place. I urge your support.

NO OPPONENTS

MEYER-I think these people are deserving of some kind of increase and hope you support this.

KROPP-How many hours in an average work week? WONTOR-Court reporters are paid on the basis of cases in that district. Mineral county pays me 2.2%. It depends upon how long you spend in a county. We do get travel and mileage. SALES-I would like to know what salaries these people are paid in different districts and what other compensation they receive. DIEMERT-On page 2, line 3, "official business" - this has never included continuing education. One county judicial district would have \$19,500 as a basis, but there's only one district in the state like that. AZZARA-Would everyone start at \$19,000? WONTOR-Everyone starts at \$19,000, I would move right into \$22,500 with this bill. PORTER-Is there a minimum speed to qualify? WONTOR-Not officially, but if someone takes this job and can't write at least 225 words per minute, they won't stay long. Our vocabulary has to be the same as anyone testifying. KROPP-Is there quite a variance with different districts? WONTOR-Yes, we have large metro areas and small rural areas. A reporter in Conrad has a very different job than one in Billings. PORTER-If you use the Stenograph, I have been told there's an attachment you can use to get transcripts more rapidly. WONTOR-These aren't that good until you reach a certain volume. BRAND-The counties have always chastised us about mandating salary increases. WONTOR-It will be the same situation as I mentioned before as to small towns and large cities. This is an annual salary, so I'm paid regardless. BARTHOLOME-Isn't there some way you could tie your salaries into the counties so that you wouldn't have to come back to the Legislature every time? WONTOR-There is nothing existing to permit that. We would be more than pleased to do that. BRAND-If we draw up some new legislation

(BRAND continued)-to that effect, could you go along with that? WONTOR-We are hired and fired by the district judges. BRAND-Would you be opposed to leaving the minimum where it is and increasing the maximum so the judge would have some leeway? WONTOR-We could go along with that but I seriously doubt that taking the power away from the judge would be very good. MAGONE-What about a cost of living clause? BRAND-We couldn't do that, and that's why I suggested removing the bottom line. WONTOR-We would be dealing with 15 Commissioners in our district.

HB 421-Sponsored by Rep. Underdal -- This was requested by the Department of Revenue, and refers to Section 6, Chapter 246, to retire General Obligation Bonds issued in 1955 for the construction of the hospital. These bonds have all been paid off since 1973. This bill provides for the disposition of the monies and any further monies that come in. A similar bill was passed for the university system construction fund. So we want to put it in the General Fund.

VERA FRESFEMAN-State Treasurer's Office -- These bonds are already paid and there's no need for this money to be sitting here.

MARY CRAIG-Acting Director, Department of Revenue -- There are additional accounting expenses involved in keeping this going.

NO OPPONENTS

BENNETT-Does this take care of any money received in the future? FRESFEMAN-Yes, from now on these monies will go directly into the General Fund. JOHNSTON-Is there a revolving building fund that this could be put into? BARDANOUVE-Any surplus in the Long Range Building goes back to the General Fund.

EXECUTIVE SESSION

HB 421-FEDA moved DO PASS, which carried unanimously, SALES then moved that the bill be placed on the Consent Calendar, which also carried unanimously.

HB 442-JOHNSTON-I would like to amend \$19,000 and put it back to \$12,500 with the necessary title amendment. AZZARA-What about bringing that up just a little? BRAND-I would like to leave it up to the judges and I don't want to tell them what to do. SALES-As a substitute amendment, what about each reporter being entitled to receive an annual salary set by the judge in the district after approval of the county commissioners of the counties involved, (see HB 442, page 1, first sentence). McBRIDE-When you have multiple counties involved that could be a problem. MAGONE-That would be leaving it wide open. McBRIDE-You would be leaving the reporter out in the cold as far as how much they would be paid. JOHNSTON-I live in a four county district and I think this would open it up for a fight between the counties and the judiciary. BENNETT-Just cut out the salaries entirely, and let the judges give them what they want. AZZARA-If we don't give counties a way to set or generate revenue and do that, I think we should complete the circle.

SALES' substitute amendment failed by voice vote, so the committee reverted to Johnston's original motion to delete "minimum" in the title and the first section; the motion carried with Kropp and Sales opposing.

SALES-I would just like to see this handled at the local level.

BAETH moved HB 442 AS AMENDED DO PASS.

KROPP-I think it's too much of a raise.

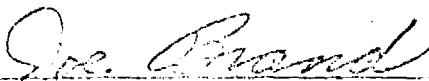
KROPP made a substitute motion to amend the maximum salary from \$25,000 down to \$22,000; and on a roll call vote the motion carried 16 - 3.

BAETH then moved that Kropp's amendment be included in his motion of AS AMENDED DO PASS, which the committee approved.

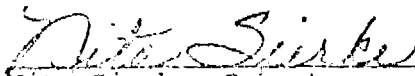
KANDUCH then moved to add another section to read that salaries be set at such a level to reflect a 5% increase without exceeding the maximum; but due to the evident disapproval of the committee, he withdrew his motion.

The vote on BAETH's motion of AS AMENDED DO PASS was 18 - 1, with Sales opposed.

Adjourned: 10:05 a.m.



Joe Brand, Chairman



Nita Sierke, Secretary

HOUSE BILL NO. 442

INTRODUCED BY MEYER, HIRSCH, SOUTH, DUSSAULT, FABREGA

A BILL FOR AN ACT ENTITLED: "AN ACT TO INCREASE THE MINIMUM
AND MAXIMUM SALARIES OF DISTRICT COURT REPORTERS; AMENDING
SECTION 3-5-602, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 3-5-602, MCA, is amended to read:

"3-5-602. Salary and expenses -- apportionment. (1)
Each reporter is entitled to receive an annual salary of not
less than ~~\$12,500~~ ~~\$19,000~~ \$12,500 or more than ~~\$16,000~~
~~\$25,000~~ ~~\$22,000~~ \$18,000 and no other compensation except as
provided in 3-5-604. The salary shall be set by the judge in
the district in which the reporter works. It is payable in
monthly installments out of the general funds of the
counties comprising the district for which the reporter is
appointed, in proportion to the number of civil and criminal
actions commenced in the district court in and for each
county in the preceding year. The judge of the district
shall, on January 1 of each year or as soon thereafter as
possible, apportion the amount of the salary to be paid by
each county in his district on the basis prescribed in this
subsection.

(2) In judicial districts comprising more than one

county, the reporter is allowed, in addition to the salary
and fees provided for in subsection (1), his actual and
necessary expenses of transportation and living when he goes
on official business to a county of his judicial district
other than the county in which he resides, from the time he
leaves his place of residence until he returns thereto. The
expenses shall be apportioned and payable in the same way as
the salary."

-End-